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surer in writing, and that in paragraph 8 as to settlement "without a judgment after trial of the issue."

Held, that plaintiff may recover amount paid in settlement and also the attorney's fees which were found to be reasonable. The principle that one who has a claim against another is bound to use due care and not allow expense to pile up unnecessarily where it might be avoided by ordinary foresight does not seem to have been considered by the court in deciding the case.

CORPORATIONS — INDIVIDUAL LIABILITY OF STOCKHOLDERS — NATIONAL BANK — STATUTE OF LIMITATIONS. *RANKIN V. BARTON*, 26 SP. CT. 29. — *Held*, that a state statute of limitations does not begin to run against the right to enforce the individual liability of stockholders in a national bank, until the amount of such liability has been ascertained by the Comptroller of the Currency.

If the United States were compelled to pay the circulating notes of a national bank, on its contract of guarantee, it would have a paramount lien on the assets of the bank for reimbursement. Therefore, since the bank is an instrumentality of the United States, the duty of administering the assets of the bank is vested in an officer of the United States, namely, the Comptroller of the Currency. On his order only can the individual liability of a stockholder be enforced. It is, therefore, necessary for the Comptroller of the Currency to determine the amount of the liability of the stockholder before a right of action accrues and the statute of limitations begins to run.

CRIMINAL LAW — ARSON — EVIDENCE — PREVIOUS FIRES. — *PEOPLE v. BROWN*, 96 N. Y. SUPP. 957. *Held*, that in a prosecution for arson, alleged to have been committed with intent to secure insurance money, admissions made by defendant to an insurance adjuster that he had had fires in other buildings than the one in question were inadmissible. *Spring, J., dissenting.*

Upon the trial of a prisoner for setting fire to a building with intent to defraud the insurers, evidence showing that up to five years previously several buildings in which the prisoner was interested and which were insured, were burnt, is irrelevant. *State v. Raymond*, 53 N. J. L. 261. In a charge of bribery evidence of previous attempts on the part of the defendant to commit bribery is not admissible, though it might show, in a moral sense, that he would be likely to commit the crime with which he is charged. *People v. Sharp*, 107 N. Y. 427. The rule is that another act of fraud is admissible to prove fraud charged only where there is evidence that the two are parts of one scheme or plan of fraud, committed in pursuance of a common purpose. *Jordan v. Osgood*, 109 Mass. 457; *Commonwealth v. Bradford*, 126 Mass. 42. But an assured having lost several other vessels evidence of such loss was admissible, as on a question of intent, any other transactions from which any inference respecting the *quo animo* may be drawn are admissible, though it has sometimes been thought that such other transactions should be contemporaneous, or nearly so, but that is not essential. *Howe v. Home Ins. Co.*, 32 Conn. 21. Where a defendant is charged with firing a house to defraud the insurers, it is admissible for the prosecution to prove that on prior occasions houses occupied by the defendant had been burned, though, as a general rule, evidence of distinct antecedent acts or transactions

is to be rejected as inadmissible against a person on trial for a particular offense. *Rafferty v. State*, 91 Tenn. 656.

CRIMINAL LAW — CONDUCT OF TRIAL — REMARKS OF JUDGE — O'SHEA v. PEOPLE, 75 N. E. 981 (ILL.). *Held*, in homicide, where the sole defense is insanity and the evidence is conflicting and the question close, the jury should be given no intimation by the trial judge as to the merits of the defense.

As a general rule, trial judges are inhibited by statute from discussing or commenting upon evidence. *Rodriguez v. State*, 5 S. W. 255; *Wessels v. Becman*, 87 Mich. 481. Any remark tending to show the court's opinion has been held error, as a remark by trial judge "has it not already been shown that conspiracy existed to admit the evidence;" this being held to be a violation of a statute forbidding the judge making any remark calculated to convey to the jury his opinion of the case. *Crook v. State*, 11 S. W. 444; *Kirk v. State*, 32 S. W. 1045. It was held error for a court in the trial of a criminal case to make a remark to, or in the presence of, the jury, in reference to matter of fact, which might in any degree influence them in their verdict. *State v. Hurst*, 11 W. Va. 54; *State v. Swayze*, 30 La. Ann. 1323. But it is said that the expression of the opinion of the judge, on the weight of testimony, is not matter of error in law. *Gale v. Spooner*, 11 Vt. 152. If the case is in the least doubtful upon the evidence it might be error for the judge to express an opinion upon the evidence, but sometimes it might be the duty of the judge to express his opinion upon the evidence. *Johnston v. Commonwealth*, 85 Pa. St. 54. It seems that in the South and West a restriction is put upon the court by statutes, while in the East and Federal Courts the matter is one within the discretion of the court to a great extent.

DAMAGES — PERSONAL INJURIES — PLEADINGS. — HYNDY v. BROOKLYN HEIGHTS RY. CO., 97 N. Y. SUPP. 705. *Held*, that a complaint for personal injuries, alleging that plaintiff was struck in the abdomen and bruised, blackened, and injured there, and internally, authorizes evidence of eruptions that came out on the abdomen, though they were caused by the abdominal pains. *Hirschberg, P. J., and Hooker, J., dissenting.*

General advertisements of personal injury are sufficient in the absence of exception, *Graham v. J. H. Banland Co.*, 89 N. Y. SUPP. 595; *Fuchs v. St. Louis Trans. Co.*, 111 Mo. App. 324, and under an averment of a particular injury, all natural effects of that injury may be shown. *Comstock v. Georgetown Twp.* 100 N. W. 788 (Mich.); *Nichols v. Oregon Short Line Ry. Co.*, 28 Utah 319. But where particular injuries are described there can be no recovery for others not described. *Brown v. Manhattan Ry. Co.*, 94 N. Y. Supp. 190; *Union Pac. Ry. Co.*, 79 Pac. 152 (Kans.). Such injuries as do not necessarily result from the defendant's wrongful act, but flow from it as a natural and proximate consequence must be specially alleged in order that the defendant may have notice thereof and be prepared to meet the same upon the trial. 2 *Greenleaf on Evidence*, Sec. 254; *Treadwell v. Whittier*, 80 Cal. 574; *Gumb v. Railway Co.*, 114 N. Y. 411. Where the complaint alleges the nature and permanent character of the injuries, the permanent loss and damage to plaintiff by reason of his impaired capacity, because of the injuries, for attending to business, may be given in evidence and considered by the jury in fixing the amount of damages without being specially pleaded. *Wade v. Leroy*, 61 U. S. 44; *Tyson v. Booth*, 100 Mass 266.